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HOUSE BILL 1360

By McKee

AN ACT to amend Tennessee Code Annotated, Title 56,
Chapter 8, Part 1 relative to the disclosure of
nonpublic personal information

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 8, Part 1 is amended by adding a
new section thereto, which shall read as follows:

Section 56-8-1___. Disclosure of Nonpublic Personal Information. – (a) Any
person who discloses nonpublic personal information contrary to the provisions of
Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102, or who
violates a rule lawfully promulgated hereunder, engages in an unfair or deceptive
act or practice, subjecting such person to the penalties delineated in § 56-8-109.
The commissioner shall not impose civil penalties against, or revoke or suspend
the license of, a person who violates this section unless the violator intentionally
violated this section or committed violations of this section in sufficient number

as to indicate a lack of the use of due diligence on the part of the violator in complying with this section. For purposes of this section, “nonpublic personal information” means nonpublic personal information as defined in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102. For purposes of this section, “person” means an entity or individual holding or required by law to hold a certificate of authority or license, or the functional equivalent thereof, under the Tennessee Insurance Law, Tennessee Code Annotated, Title 56.

(b) Pursuant to § 56-8-107, the commissioner may, for good cause, examine and investigate into the affairs of every person engaged in the business of insurance in this state in order to determine whether such person has violated subsection (a) of this section.

(c) Whenever the commissioner has reason to believe that any person has violated subsection (a) of this section, the commissioner shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than thirty (30) days after the date of the service of such notice. Such hearing shall be conducted pursuant to the Uniform Administrative Procedures Act, compiled at Tennessee Code Annotated, Title 4, Chapter 5. After notice and hearing, the commissioner may impose appropriate disciplinary action and civil penalties as delineated in § 56-8-109, including requiring any violator to cease and desist in disclosing nonpublic personal information or violating any lawfully promulgated rule. Any person aggrieved by a final order of the commissioner may obtain judicial review of the order in the chancery court of Davidson County by

proceedings in accordance with the Uniform Administrative Procedures Act, compiled at Tennessee Code Annotated, Title 4, Chapter 5.

(d) Whenever it appears to the commissioner that any person has violated or is about to violate subsection (a) of this section, or is violating or is about to violate an order lawfully entered by the commissioner pursuant to subsection (c) of this section; the commissioner may, in the commissioner's discretion, bring an action in the chancery court of Davidson County to enjoin such violation and to enforce compliance with this section or any rule hereunder or any order lawfully entered pursuant to subsection (c) of this section. The court may not require the commissioner to post a bond.

(e) If any person violates a cease and desist order of the commissioner under § 56-8-109, the commissioner may order any and all remedies appropriate for such violation pursuant to, and to the same extent provided by, § 56-8-112.

(f) The commissioner may, after notice and hearing, adopt rules and regulations as are necessary and proper to effectuate the provisions of this section. The commissioner may also adopt public necessity rules as determined to be necessary to effectuate the provisions of this section or as necessary to adopt rules by July 1, 2001. Such rules and regulations shall be no more restrictive than the model regulation adopted by the National Association of Insurance Commissioners in September of 2000 entitled "Privacy of Consumer Financial and Health Information Regulation." All rules and regulations promulgated pursuant to this subsection shall be adopted pursuant to the Uniform Administrative Procedures Act, compiled at Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 2. Nothing contained in this act shall create a private cause of action. The Commissioner of the Department of Commerce and Insurance shall be responsible for the enforcement of this act.

SECTION 3. For purposes of rulemaking, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2001, the public welfare requiring it.